

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

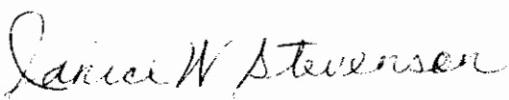
JANICE STEVENSON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 05-CV-11584-DPW
)	
NEIGHBORHOOD HOUSE CHARTER)	
SCHOOL,)	
)	
Defendant.)	
)	

**PLAINTIFF'S THIRD MOTION TO WITHDRAW DOCKET NO. 35:
PLAINTIFF'S MOTION TO COMPEL PAYMENT VACATION WAGES**

On January 23, 2007, Plaintiff, Janice W. Stevenson, attempted an oral motion to withdraw Docket No. 35 before Judge Woodlock (Attachment I: see transcript pg 22, line 9 to 25). Plaintiff had initially requested withdrawal of Plaintiff's Motion To Compel Payment of Vacation Wages, Docket No. 35, in her Motion of Objections to the Magistrate's Proposed Order and Findings, page 3 (Attachment II), Docket No. 50, filed November 9, 2006.

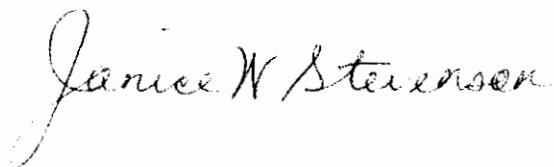
Plaintiff requests a written order to reflect Plaintiff's Motion To Compel Payment of Vacation Wages, Docket No. 35, has been withdrawn from the federal court and correction of the docket to reflect Plaintiff's Motion To Compel Payment of Vacation Wages, Docket No. 35, has been withdrawn from the federal court.

Respectfully submitted,


Janice W. Stevenson
P.O. Box 400372
Cambridge, MA 02140
617-721-2638 – ph
Dated: June 21, 2007

Certificate of Service

I, Janice W. Stevenson, hereby certify that on this 21st day of June, 2007, a true copy of the foregoing document was sent by electronic mail to Barry Miller, Lynn A. Kappelman at bmiller@seyfarth.com, lkappelman@seyfarth.com.

A handwritten signature in black ink that reads "Janice W Stevenson". The signature is written in a cursive style with a fluid, continuous flow of lines.

ATTACHMENT I

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

* * * * *

JANICE STEVENSON Plaintiff

VERSUS
NEIGHBORHOOD HOUSE CHARTER
SCHOOL

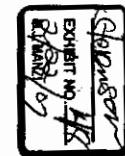
Defendant

CR-05-11584-DPW

BEFORE THE HONORABLE DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT COURT JUDGE

STATUS CONFERENCE

JANUARY 23, 2007



APPEARANCES:

JANICE STEVENSON, Post Office Box 400372, Cambridge,
Massachusetts 02140, in proper person

BARRY J. MILLER, Esq., Seyfarth, Shaw, LLP, Two Seaport
Lane, Suite 300, Boston, Massachusetts 02210, on
behalf of the defendant

Courtroom No. 1 - 3rd Floor
1 Courthouse Way
Boston, Massachusetts 02210
10:15 A.M. - 10:45 A.M.

Panelist 2 - Official Court Reporter

John Joseph McNamee District Court Reporter
1 Courthouse Way - Suite 3200
Boston, Massachusetts 02210

1. THE COURT: Well, I have a series of motions here.
2. But I want to step back a bit first and understand from both parties' perspectives what's going to be necessary to get this to judgment here. Mr. Davis, is it?
3. MR. MILLER: Mr. Davis has withdrawn. Your Honor.
4. He was Ms. Stevenson's former counsel.
5. MR. MILLER: Tim Barry Miller here for Neighborhood House Charter School.
6. It is our position, Your Honor, that this case has become an irreconcilable mess because of Ms. Stevenson's pattern of misconduct in this matter and in several related matters, and we believe that Magistrate Judge Alexander's order of November 7th served as her last and final warning to Ms. Stevenson that her conduct up to that point had been unacceptable and would not be tolerated further. And starting days after Magistrate Judge Alexander entered that order Ms. Stevenson not only continued her pattern of behavior, but actually escalated her antics. She continued to file frivolous motions against the school in this forum and in the Bankruptcy Court because she knew she had won her welcome here. She disregarded Magistrate Judge Alexander's clear instruction that she produce specifically designated documents and she wilfully failed to appear for her deposition.
7. THE COURT: I understand that larger position. But

8. I assume that this is going to be resolved on the merits. What needs to be done?
9. MR. MILLER: You'll notice in order for us to respond to the substance of the claims that Ms. Stevenson has asserted, we have to be able to take discovery. We have to get a meaningful document production from her. She's in control of most of the documents relating to the case. Because one of the central issues here is whether her company through which she provided services to Neighborhood House Charter School was an independent contractor or whether she was, in fact, an employee directly of the school.
10. THE COURT: But it's simply discovery from her and the associated document requests -- that is, document requests from her? Is there anything else? Is it all focused on
11. Ms. Stevenson?
12. MR. MILLER: It's almost entirely focused on Ms. Stevenson, including deposition testimony which she has refused to give up to this point.
13. THE COURT: All right. Ms. Stevenson?
14. MS. STEVENSON: Before I address that, I've been trying to obtain the transcript from the hearing the Magistrate had. And on the docket, I referred to a phone number and person. And I've been trying to contact that person to get a copy of the transcript. And I believe they're within this court. Can you tell me how I can get a transcript of that

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15. not yet produced?
16. MS. STEVENSON: I think -- I feel like I have produced everything she's --
17. THE COURT: I'm taking that as your representation, there are no other documents.
18. MS. STEVENSON: Yeah, because she only wanted three documents -- tax forms, the calendar, and I forged what the other one is. But I produced three.
19. THE COURT: I don't really care what --
20. MS. STEVENSON: But the point is this.
21. documents -- tax forms, the calendar, and I forged what the other one is. But I produced three.
22. THE COURT: I don't really care what --
23. MS. STEVENSON: But the point is this.
24. THE COURT: -- you've produced in the past. Let me

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1 be clear about this, Ms. Stevenson. Now this time has come. If
 2 you tell me that you have complied fully with Magistrate Judge
 3 Alexander's orders, that all the documents have been produced,
 4 then I'll accept that representation. If I find that that
 5 representation is wrong, and the defendants can show to me
 6 either that there are documents that you didn't produce or you
 7 continue to produce in some other forum or even in this forum
 8 documents that were responsive, I'm going to hold you in
 9 contempt.

10 MS. STEVENSON: Okay.

11 THE COURT: Do you understand?

12 MS. STEVENSON: I understand.

13 THE COURT: Okay. So -

14 MS. STEVENSON: But -

15 THE COURT: Just a moment. Now, no extra
 16 discussion about it.

17 MS. STEVENSON: It's not a discussion. I want to
 18 know why on the documents I produced that has determined
 19 that - I really feel there are no other issues involved if -

20 THE COURT: We're going to get to that, but we're

21 going step by step. And the first step is the documents. You

22 tell me and you've represented me on points that I will hold

23 you in contempt and I should add enforce as soon as the

24 disbarment of the case if new documents appear.

25 MS. STEVENSON: Well, Your Honor, if you're going

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1 various actions that you have taken. Now, I intend -- as
 2 over again. As I understood it, what she has sent to me is
 3 some small fraction of what she filed with her papers.
 4 THE COURT: When you say as you understand, what's
 5 the basis for that understanding?

6 MR. MILLER: When she filed those papers, I had a

7 discussion with Ms. Rymer about what was filed because it was

8 close that what she served on me was different from what she
 9 had served on the Court. And we had concerns about some of the

10 specific documents that we thought she may have filed because

11 she was, in fact, sanctioned by the Bucks County Court from

12 filing those specific documents because they are confidential.

13 And as I understood it -- and, again, I have not seen what she,

14 in fact, filed with the Court and it's not available online.

15 But as I understand it, the documents she produced to the Court

16 or filed with the Court include some journals that she

17 has apparently -- and I haven't seen them. But it's my

18 understanding that she filed documents with the Court,

19 including her tax returns and perhaps some journals that were

20 at issue in the case that we don't yet have.

21 THE COURT: Have you provided them, for defendant?

22 MS. STEVENSON: Yes, sir. And I have proof that I

23 sent them to him. I sent them electronically.

24 THE COURT: No. There were a large number of

25 documents.

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1 MS. STEVENSON: Yes. When they sent me the E-mail
 2 after they received this document, they never told me -- and I
 3 didn't know that she had been here with it. They never told me after they
 4 received this document that there was some missing. I didn't
 5 know about their alleged missing documents until they wanted to
 6 file a supplemental brief. And I have that E-mail here with me

7 from them.

8 THE COURT: The docket reports as follows with

9 respect to your motion for summary judgment. Motion for

10 summary judgment by Justice Stevenson. Plaintiff's voluminous and

11 unsworn,* which means that they weren't sent by electronic -

12 MS. STEVENSON: No, no, no, no, no. I brought

13 those in here, because I don't have access to what attorneys

14 do. But they can -

15 THE COURT: And then we're going to show, if he can,

16 that there is some difference. And you'll have an opportunity

17 to respond. But you don't get to say things in the Court -

18 without correspondence. And you have represented to me that

19 everything that is on file is in connection with the station for

20 Summary Judgment was served on the other side.

21 MS. STEVENSON: That's right, electronically.

22 THE COURT: Okay. I heard what you had to say.

23 MS. STEVENSON: That's right.

24 THE COURT: And we told you what the consequences

25 will be if you have been in contempt.

26 MS. STEVENSON: I'm listening.

27 THE COURT: Okay. I've just told you the first

28 step. You will have adequate opportunity to address me on

29 other matters. But this case has been transformed into a

30 mess. And it has been transformed into a mess because of

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1 of six E-mails attaching essentially the same thing over and
 2 over again. As I understood it, what she has sent to me is

3 some small fraction of what she filed with her papers.

4 THE COURT: When you say as you understand, what's

5 the basis for that understanding?

6 MR. MILLER: When she filed those papers, I had a

7 discussion with Ms. Rymer about what was filed because it was

8 close that what she served on me was different from what she

9 had served on the Court. And we had concerns about some of the

10 specific documents that we thought she may have filed because

11 she was, in fact, sanctioned by the Bucks County Court from

12 filing those specific documents because they are confidential.

13 And as I understood it, my client, which is a charitable

14 educational organization, has been forced to expend thousands

15 of dollars on top of tens of thousands of dollars that

16 we already expended in this case for no justifiable reason.

17 And we believe that that alone stands for grounds for a

18 significant sanction against Ms. Stevenson.

19 THE COURT: Okay. Why didn't you show up for the

20 deposition?

21 MS. STEVENSON: Your Honor, I came across documents

22 and I produced documents then, according to the law, if you can

23 produce evidence with affidavit that show there is no issues

24 of fact that can be -- that could no longer -- that the

25 defendant can no longer claim and I came to the Court and I

26 submitted those documents because there is no issue now if they

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1 of the materials that she said she did. She says that she
 2 served on you by E-mail all the documents that were produced in
 3 connection with the motion for summary judgment. I take that
 4 as a representation. If it's inaccurate, it will be grounds
 5 for contempt. Do you understand?

6 MS. STEVENSON: Yes, I have the E-mail.

7 THE COURT: No, no. What's going to happen is

8 counsel is going to look at what's on file in this Court.

9 MS. STEVENSON: Yes.

10 THE COURT: And then we're going to show, if he can,

11 that there is some difference. And you'll have an opportunity

12 to respond. But you don't get to say things in the Court -

13 without correspondence. And you have represented to me that

14 everything that is on file is in connection with the station for

15 Summary Judgment was served on the other side.

16 MS. STEVENSON: That's right, electronically.

17 THE COURT: Let me cut you short, because you've

18 got to answer my question: Why didn't you show up for the

19 deposition? You were ordered to show up for the deposition by

20 Judge Alexander. Why didn't you show up?

21 MS. STEVENSON: I did not show up, Your Honor,

22 because I had also informed him after the -- after he notified

23 me that I could no longer financially bear those costs of

24 going back and forth to the deposition. If he could prove it,

25 closer -

26 THE COURT: What costs of going back and forth?

27 MS. STEVENSON: The transportation costs.

28 THE COURT: But you were here in court filing on

29 that day.

30 MS. STEVENSON: Yes, sir.

31 THE COURT: Now, the transportation costs are the

32 same to get to this court as to get to the office just down

33 the street.

34 MS. STEVENSON: Well, Your Honor, I made the cost

35 to come here to file it hopefully that it would grant -- that

36 the documents would show that there can be no more -- that

37 there are no more issues.

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1 MR. MILLER: Yes, Your Honor. Magistrate Judge

2 Alexander specifically ordered Ms. Stevenson to appear for

3 deposition, having found that she unjustifiably failed and

4 refused to participate in the first two sessions of her

5 deposition. She ordered it for date certain for December 20th,

6 after accommodating Ms. Stevenson's schedule and allowing her

7 to reschedule it for a date that she had not been available on.

8 Ms. Stevenson failed to appear without justification, notice,

9 or excuse. And in fact, it appears that she was at this

10 courtroom filing documents on the day that she should have been

11 in our office a few hundred yards from here sitting for her

12 deposition. And as a result, my client, which is a charitable

13 educational organization, has been forced to expend thousands

14 of more dollars on top of tens of thousands of dollars that

15 we already expended in this case for no justifiable reason.

16 And as we believe that that alone stands for grounds for a

17 significant sanction against Ms. Stevenson.

18 THE COURT: Okay. Why didn't you show up for the

19 deposition?

20 MS. STEVENSON: Your Honor, I came across documents

21 and I produced documents then, according to the law, if you can

22 produce evidence with affidavit that show there is no issues

23 of fact that can be -- that could no longer -- that the

24 defendant can no longer claim and I came to the Court and I

25 submitted those documents because there is no issue now if they

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<p>1 THE COURT: You're in violation of a court order.</p> <p>2 MS. STEVENSON: Well, no, sir. I really –</p> <p>3 THE COURT: Yes, you are in violation of a court</p> <p>4 order. Magistrate Judge Alexander was clear: You have an</p> <p>5 obligation to appear before a deposition. You don't get to</p> <p>6 make your own choices about whether or not you appear or don't</p> <p>7 appear. You were ordered to appear and you didn't.</p> <p>8 Now, the question for me is what the sanction</p> <p>9 should be. I'm going to give you one more chance – one more</p> <p>10 chance. I'm going to fix the date for deposition and you're</p> <p>11 going to appear.</p> <p>12 So, what date do you want? What date do you want?</p> <p>13 MR. MILLER: Your Honor, we would like some time to</p> <p>14 review the court file and make sure we have documents</p> <p>15 available.</p> <p>16 THE COURT: What dates do you want?</p> <p>17 MR. MILLER: We're probably looking at a date in</p> <p>18 late February if that's acceptable to the Court.</p> <p>19 THE COURT: Okay. Well fix a date in late</p> <p>20 February. Ms. Stevenson, when are you available?</p> <p>21 MS. STEVENSON: I don't have a calendar in front of</p> <p>22 me. Your Honor.</p> <p>23 THE COURT: Well, you're going to have to tell me</p> <p>24 right now.</p> <p>25 MS. STEVENSON: Well, I don't know.</p>	<p>1 something on that date?</p> <p>2 THE COURT: Well, you're going to have to make some</p> <p>3 kind of motion.</p> <p>4 MS. STEVENSON: But was it in another court?</p> <p>5 THE COURT: You're going to have to make some kind</p> <p>6 of motion.</p> <p>7 MS. STEVENSON: Motion?</p> <p>8 THE COURT: Motion. You know about those. You've</p> <p>9 filed them. You filed a number of them. You're going to have</p> <p>10 to do what you didn't do with respect to Magistrate Judge</p> <p>11 Alexander's order. Ask for some sort of leave. And unless you</p> <p>12 get that leave from this Court, the consequence will be the</p> <p>13 dismissal of this case. February 2nd. At what time?</p> <p>14 MR. MILLER: At 10 A.M., please. Your Honor.</p> <p>15 THE COURT: 10 A.M. at the office –</p> <p>16 MR. MILLER: At the offices of Seyfarth, Shaw,</p> <p>17 which is in the World Trade Center, a few hundred yards from</p> <p>18 here.</p> <p>19 THE COURT: That's where you're going to have to</p> <p>20 appear. And until I issue an order that says that you don't</p> <p>21 appear, you have to appear. Do you understand?</p> <p>22 MS. STEVENSON: Yeah.</p> <p>23 THE COURT: Now, what else?</p> <p>24 MS. STEVENSON: Might I ask a question?</p> <p>25 THE COURT: You'll have an opportunity. I'm asking</p>	<p>1 case.</p> <p>2 Now, you had some something further that you wanted</p> <p>3 to say?</p> <p>4 MS. STEVENSON: Yes. Why would you deny my motion</p> <p>5 if it's relevant to the issue now?</p> <p>6 THE COURT: Because it's not timely and because you</p> <p>7 have interfered with discovery. I just set a date for summary</p> <p>8 judgment.</p> <p>9 MS. STEVENSON: But if I gave evidence that can</p> <p>10 show there is no deposition or anything else he can produce</p> <p>11 that can overcome my evidence, why would you deny it?</p> <p>12 THE COURT: Well, we'll find out. You'll show up</p> <p>13 at the deposition.</p> <p>14 MS. STEVENSON: Okay. And what about –</p> <p>15 THE COURT: Just a moment.</p> <p>16 MS. STEVENSON: (Heavy sighing).</p> <p>17 THE COURT: And then I get an opportunity –</p> <p>18 excuse me. Have you completed your aging?</p> <p>19 MS. STEVENSON: My aging?</p> <p>20 THE COURT: Sighing.</p> <p>21 MS. STEVENSON: Well –</p> <p>22 THE COURT: Here you go!</p> <p>23 MS. STEVENSON: – I still have – I still have a</p> <p>24 comment. But Your Honor, I really feel like there is nothing</p> <p>25 else that I can produce for them.</p>
<p>1 THE COURT: Well, I'm going to tell you when you're</p> <p>2 going to appear for the deposition. What other obligations do</p> <p>3 you have? Are you working?</p> <p>4 MS. STEVENSON: No, but I'm looking for a job.</p> <p>5 THE COURT: Okay. Well, then this date will</p> <p>6 interfere with your job search. Because you're going to have</p> <p>7 to appear on this date.</p> <p>8 MS. STEVENSON: In this Court?</p> <p>9 THE COURT: No, in the deposition at their office</p> <p>10 just as Magistrate Judge Alexander told you to do. And You</p> <p>11 should understand that was within my power and it is within</p> <p>12 my power to dismiss this case for your wilful failure to</p> <p>13 appear at the deposition, but I'm giving you one more chance.</p> <p>14 MR. MILLER: Can I request February 2nd. Your</p> <p>15 Honor, for the deposition?</p> <p>16 THE COURT: Thursday, February 2nd. At what time?</p> <p>17 MR. MILLER: 10 A.M., please.</p> <p>18 THE COURT: You should take that down.</p> <p>19 Ms. Stevenson, Thursday, February 2nd. I'm sorry. You don't</p> <p>20 seem to be writing.</p> <p>21 MS. STEVENSON: I don't have anything to write</p> <p>22 with.</p> <p>23 THE COURT: Okay. Well, Ms. Ryane will pass you a</p> <p>24 pen so that you can write this down.</p> <p>25 MS. STEVENSON: Well, suppose I get back and I have</p>	<p>1 question of counsel first.</p> <p>2 MR. MILLER: If that's all Your Honor wishes to</p> <p>3 hear on our motion for order to show cause, the only remaining</p> <p>4 motions before the court, I believe, include plaintiff's motion</p> <p>5 for summary judgment, the two documents she filed on December</p> <p>6 20th. And to the extent that Your Honor hasn't already</p> <p>7 addressed it, there are objections to the Magistrate Judge's</p> <p>8 order.</p> <p>9 THE COURT: Now, assuming that you have the</p> <p>10 deposition and you have those documents, what is your next step</p> <p>11 in this case?</p> <p>12 MR. MILLER: We intend to move for summary</p> <p>13 judgment. Your Honor.</p> <p>14 THE COURT: All right. When would you move for</p> <p>15 summary judgment, Your Honor, in relation to the deposition?</p> <p>16 MR. MILLER: We would ask for three weeks after her</p> <p>17 deposition is completed.</p> <p>18 THE COURT: Okay. Well, it can be completed in one</p> <p>19 day.</p> <p>20 MR. MILLER: We believe it can if it's cooperative,</p> <p>21 Your Honor.</p> <p>22 THE COURT: Okay. So, I will permit the filing of</p> <p>23 motions for summary judgment on March 16. And will deny the</p> <p>24 motion for summary judgment of the plaintiff without prejudice</p> <p>25 in order to permit the full development of the record in this</p>	<p>1 something on that date?</p> <p>2 THE COURT: Well, you're going to have to make some</p> <p>3 kind of motion.</p> <p>4 MS. STEVENSON: But was it in another court?</p> <p>5 THE COURT: You're going to have to make some kind</p> <p>6 of motion.</p> <p>7 MS. STEVENSON: Motion?</p> <p>8 THE COURT: Motion. You know about those. You've</p> <p>9 filed them. You filed a number of them. You're going to have</p> <p>10 to do what you didn't do with respect to Magistrate Judge</p> <p>11 Alexander's order. Ask for some sort of leave. And unless you</p> <p>12 get that leave from this Court, the consequence will be the</p> <p>13 dismissal of this case. February 2nd. At what time?</p> <p>14 MR. MILLER: At 10 A.M., please. Your Honor.</p> <p>15 THE COURT: 10 A.M. at the office –</p> <p>16 MR. MILLER: At the offices of Seyfarth, Shaw,</p> <p>17 which is in the World Trade Center, a few hundred yards from</p> <p>18 here.</p> <p>19 THE COURT: That's where you're going to have to</p> <p>20 appear. And until I issue an order that says that you don't</p> <p>21 appear, you have to appear. Do you understand?</p> <p>22 MS. STEVENSON: Yeah.</p> <p>23 THE COURT: Now, what else?</p> <p>24 MS. STEVENSON: Might I ask a question?</p> <p>25 THE COURT: You'll have an opportunity. I'm asking</p>
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Page 18	Page 19	Page 20
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STEVENSON V. NEIGHBORHOOD HOUSE CHARTER SCHOOL

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1 question of summary judgment in an orderly fashion. You say 2 you're entitled to some additional documents.	1 March 16th. Should we set a date for responses to those 2 motions?
3 MS. STEVENSON: Yes.	3 THE COURT: No, the ordinary.
4 THE COURT: But you have not filed a motion to 5 compel that would permit me to order it. So, I have nothing 6 before me with respect to that.	4 MR. MILLER: Ten days?
7 We now have a schedule that you will comply with. 8 And if you fail to comply with it, the case will be dismissed.	5 THE COURT: No, it's 14 days.
9 MS. STEVENSON: Oh, and another thing. Have you 10 addressed my motion to withdraw? I had a request.	6 MR. MILLER: Fourteen days after filing. Thank 7 you, Your Honor.
11 THE COURT: Right.	8 THE COURT: Okay. All right. Anything else?
12 MS. STEVENSON: I wanted to put it in state court.	9 (No response.)
13 THE COURT: Whatever you want to do with the case 14 is up to you.	10 THE COURT: I think I have been as clear as I can 11 be about this. Ms. Stevenson, I hope that this case can be 12 resolved on the merits. I hope that I don't have to dismiss it 13 because of misconduct. But I've made it as clear as I can that 14 you've got one more chance to comply with Magistrate Judge 15 Alexander's orders. If you don't, then the case will be 16 dismissed for procedural infractions and the failure on your 17 part properly to conduct yourself in litigation with this 18 Court.
19 THE COURT: I'm not going to interfere with 20 that.	19 So, if there's nothing further, we'll be in recess.
21 MS. STEVENSON: Okay.	20 RECESSED AT 10:45 A.M.
22 THE COURT: But it's withdrawn in this Court.	21
23 MS. STEVENSON: Okay.	22
24 THE COURT: And it can't be revived in this Court.	23
25 MS. STEVENSON: No.	24
26	25

Page 23	Page 25
1 THE COURT: Okay. So first, we deal with motion 2 number 59 Motion to Withdraw the Motion for Order to Show 3 Cause. That motion to withdraw is allowed.	1 CERTIFICATION
4 Second, we deal with the Motion for Summary 5 Judgment filed by the plaintiff when she was expected to be at 6 the deposition. That's number 57. That is denied without 7 prejudice. The time for filing Motions for Summary Judgment in 8 this case would be March 16th.	4 I certify that the foregoing is a correct 5 transcript of the record proceedings in the above-titled 6 matter to the best of my skill and ability.
9 Third, we deal with the Motion to Show Cause, which 10 is number 56, which was indicated has been withdrawn.	7
11 We deal then with motion number 54, the Motion to 12 File a Supplementary Brief in Support of the Motion to Show 13 Cause. That motion is allowed.	9 Pamela R. Owens Date _____
14 Next, we deal with the Motion for an Order to Show 15 Cause by the Neighborhood Charter School. I dealt with that 16 motion by summarizing that the plaintiff has asserted under 17 rules of dismissal that there are no further documents that are 18 responsive to Judge Alexander's order that have not been 19 provided to counsel in this case — defense counsel in this 20 case; and second, that Ms. Stevenson will appear for a 21 deposition on February 22nd at 10 A.M. in the Superior offices.	10 Official Court Reporter
22 I don't believe there's anything else that needs to 23 be dealt with in there?	11
24 MR. MILLER: Your Honor, if we could just clarify, 25 You stand that the summary judgment motions are to be filed by	12
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JANUARY 23, 2007 >

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7 (Pages 22 to 25)

ATTACHMENT II

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, IN CLERK'S OFFICE		FILED U.S. DISTRICT COURT U.S. DISTRICT OF MASS. CIVIL ACTION NO. 05CV11584-DPW
JANICE STEVENSON, Plaintiff, v. NEIGHBORHOOD HOUSE CHARTER SCHOOL, Defendant.		7/14/07 9:17 PM 1:1

**PLAINTIFF'S MOTION OF OBJECTIONS TO
THE MAGISTRATE'S PROPOSED ORDER AND FINDINGS**

Plaintiff Janice Stevenson is filing written objections to the magistrate's proposed findings pursuant to Rule 72, F.R.Civ.P., requiring the court to give the matter de novo

consideration. The Court erred in entering issue-preclusion sanctions that are overly

broad since Plaintiff had not failed to produce information relevant to Defendant's two

(2) FLSA counterclaims. Plaintiff is seeking a review to give the matter de novo

consideration or in the alternative amend the order to certify for interlocutory appeal under 28

U. S. C. Section 1292(b). The issue sanction as worded exceeds the bounds of the Court's discretion. In support thereof Plaintiff states the following:

**OBJECTIONS TO
Defendant's Motion To Compel Production of Documents and For Sanctions
(Docket #32) and Defendant's Motion for Terminating Sanctions, or in the
Alternative, to Compel Deposition Testimony (Docket #41)**

1. Defendant's discovery does not comply with the FLSA burden of proof requirements for employers as required by *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946).

4. The Court has precluded Defendant from discovery of such personnel documents from its ruling regarding item 1 and 3.

2. The Court has imposed conditions and different standard of discovery on Plaintiff, which could affect the outcome of her trial or depository motions.
3. Plaintiff is entitled to conduct pretrial discovery into all matters that are discoverable.
4. The Court has given Defendant Neighborhood House Charter School unlimited discovery.
5. The Court has relieved Plaintiff of the burden of establishing other elements of Plaintiff's case.
6. Defendant's motions (Docket #'s 32 and 41) for sanctions were not procedurally proper. Before filing a motion for sanctions, Federal Rule of Civil Procedure 37 requires that parties confer in good faith to come to agreement over discovery disputes and then, if necessary, a party may file a motion to compel.
7. The Court has abused its discretion in entered issue-establishment sanctions without use of a three-step analysis. There must be (1) a finding of willfulness; (2) a record that indicates a reasonable exploration of possible and meaningful alternatives; and (3) a sufficient relationship between the discovery materials and the case.
8. The Court's order for production of Plaintiff's tax returns is abuse of discretion since it is based on the mere belief by Defendant that they may contain impeachment material; the protections afforded such returns would now not exist.
9. The Court made no effort for Defendant to meet the two-prong test of showing that (1) the tax returns are relevant to the subject matter of the case, and (2) the defendant has a compelling need to review them because the information they contain is not available anywhere else.

**OBJECTIONS TO:
Defendant's Motion to Amend Scheduling Order (Docket #44)**

1. The Court has allowed the Defendant an open-ended discovery that is unlimited.

2. Defendant stated to the Court Plaintiff is an independent contractor or if Plaintiff is found to be an employee, Plaintiff is an administrative employee, so their discovery is unfocused.

3. In either case Defendant maintains it has no personnel records. However, Defendant's own correspondence states Plaintiff was given Vacation, Personal Days, and Sick days, which implies there are attendance records and records of wages paid against them. [Attachment 1]

4. The Court has precluded Defendant from discovery of such personnel documents from its ruling regarding item 1 and 3.

5. Amendment of the scheduling order is legal minutia by the Defendant. The Defendant is attempting to circumvent getting this case to trial or at least get it dismissed by repeatedly compelling discovery, scheduling depositions, as far apart as possible. When more time is desired, Defendant's repeat the process.

6. Defendant is not truly sincere about discovery and is only interested in obtaining sanctions, since Defendant's move for terminating sanctions is inconsistent with any assertion that Defendant needs additional documents in order to prepare for trial.

**OBJECTIONS TO
Plaintiff's Motion to Compel Payment of Vacation Wages- Including Defendant's
Cross-Motion for Sanctions (Docket # 35 and 39)**

Plaintiff request to withdraw Docket #35, Plaintiff's Motion to Compel Payment of Vacation Wages or in the alternative to remove Docket # 35 to state district court.

THEREFORE, Plaintiff is seeking a review to give the matter de novo

consideration or in the alternative amend the order to certify for interlocutory appeal under 28

U. S. C. Section 1292(b).

Date: November 9, 2006

Submitted by:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 9, 2006, a copy of the Plaintiff's Motion Of Objections To The Magistrate's Order And Findings was served via first class mail postage prepaid, or by electronic notice, upon the Attorney of Record at the address set forth below.

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